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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,785	11/22/2000	Cary A. Jardin	042390.P8899	3950

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EXAMINER

PICH, PONNOREAY

ART UNIT	PAPER NUMBER
2135	

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/721,785

Applicant(s)

JARDIN ET AL.

Examiner

Ponnoreay Pich

Art Unit

2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 8/29/2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 6-12, 15, 16, 19 and 20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Response to Amendment

Applicant's amendments to claims 7, 12, 16, and 19-20 are not entered as they change the scope of the claims and would require further search and reconsideration by the examiner.

Response to Arguments

As per the objections to claims 19 and 20, applicant's arguments were persuasive and the objections to the two claims are withdrawn.

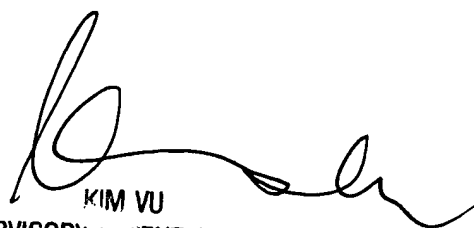
Applicant's arguments towards 112, second paragraph rejections are moot as the amendments are not entered as they change the scope of the claims. With regards to applicant's comments to claim 15 that the examiner did not include a reason for why claim 15 was rejected under 112, second paragraph, note that on page 3 of the Final office action, point 3 of claim rejections under 112 stated that any claims not specifically addressed are rejected by virtue of dependency. Claim 15 is dependent on claim 12, which was rejected under 112, thus claim 15 was rejected due to dependency.

As per claim 1, applicant argues that Genty does not teach "a security switch to switch the first link from a non-secured mode using an HTTP protocol to a secured mode using an HTTP-S protocol when a report of the detected failures or intrusions is received from the bus monitor". Instead, applicant states that Genty teaches going from a first secure mode to a second secure mode. In response, applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed.

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Cir. 1986). The limitation was rejected under Genty in view of applicant's admittance of prior art.

As noted by applicant, Genty does teach going from a first mode to a second mode. The examiner agrees that both modes disclosed by Genty were secure, i.e. using VPN tunnels. However, it was when taken in view of applicant's admittance of prior art where one can have a non-secured mode using HTTP protocol and a secure mode using HTTP-S protocol that the limitation being argued is made obvious. It is noted that applicant's claims 12 and 16 referred to an HTTP non-secured protocol and HTTP-S secured protocol, which when viewed in one manner is indefinite because HTTP is a non-secured protocol and HTTP-S is a secured protocol. However, the examiner also considered that applicant may have been referring to utilizing HTTP and HTTP-S along with other non-secured and secured protocols. Thus, when examining claim 1, the examiner interpreted the limitation being argued as encompassing use of VPN along with HTTP and HTTP-S protocol, i.e. double encapsulation. When using VPN with HTTP, the first link is in a secured VPN mode, but it is also in a non-secured mode due to use of the HTTP protocol, which is a non-secured protocol. When using HTTP-S with VPN, the link is in a doubly secured mode, using HTTP-S and VPN.



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